

**IT 07-5**

**Tax Type: Income Tax**

**Issue: Federal Change (Individual)**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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<b>THE DEPARTMENT OF REVENUE</b>	)	
<b>OF THE STATE OF ILLINOIS</b>	)	<b>No. 00 IT 0000</b>
	)	
	)	<b>SSN 000-00-0000</b>
v.	)	
	)	<b>Tax Year 2000</b>
<b>JOHN DOE,</b>	)	
<b>Taxpayer</b>	)	
	)	<b>Administrative Law Judge</b>
	)	<b>Kenneth J. Galvin</b>

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. Alan F. Segal, Alan F. Segal & Associates, on behalf of John Doe; Mr. Ronald Forman, Special Assistant Attorney General, on behalf of the Department of Revenue of the State of Illinois.

**Synopsis:**

On October 11, 2005, the Illinois Department of Revenue (hereinafter "Department") issued a Notice of Deficiency (hereinafter "NOD") to John Doe (hereinafter "taxpayer"). The basis of the NOD was the Department's determination that the taxpayer had failed to report to the Department a federal change in adjusted gross income (hereinafter "AGI") for 2000. The NOD proposed the assessment of taxes and interest.

Taxpayer subsequently filed a timely protest of the NOD and requested a hearing, which was held on July 11, 2007. Taxpayer did not appear in person at the hearing.

Following a review of the evidence and the arguments made at the hearing, it is recommended that the NOD be finalized as issued.

**Findings of Fact:**

1. The Department's *prima facie* case, inclusive of all jurisdictional elements, is established by the NOD, issued on October 11, 2005. The NOD indicated that taxpayer had understated the AGI on his IL-1040 for 2000 by \$18,550. The NOD assessed a net tax due of \$557 plus interest. Dept. Ex. No. 1.

**Conclusions of Law:**

The Illinois Income Tax Act, 35 ILCS 5/101 *et seq.*, requires that a tax return be filed by the fifteenth day of April following the close of the taxable year. 35 ILCS 5/505(2). Section 601 provides that every taxpayer required to file a return shall pay any tax due to the Department on or before the date fixed for filing such return. 35 ILCS 5/601(a). If a taxpayer fails to file a tax return, the Department shall determine the amount of the tax due and this amount shall be "*prima facie* evidence of the correctness of the amount due." 35 ILCS 5/904(b). Additionally, Section 904(a) of the Illinois Income Tax Act provides that a NOD is *prima facie* evidence of the correctness of the amount of tax and penalties due. 35 ILCS 5/904(a).

Any person required to file an Illinois income tax return is required to notify the Department, within the time frame set by statute, of any federal change which affects the computation of such person's base income. 35 ILCS 5/506(a)(b). In the instant case, taxpayer failed to notify the Department of a federal change for tax year 2000, which increased taxpayer's AGI by \$18,550. The NOD assessed additional tax for 2000 of \$557 plus interest on the unreported increase in AGI.

Taxpayer did not appear at the evidentiary hearing and has not provided any oral testimony. To overcome the Department's *prima facie* case, the taxpayer must present consistent and probable evidence identified with book and records. Central Furniture Mart v. Johnson, 157 Ill. App. 3d 907 (1<sup>st</sup> Dist. 1987). Taxpayer has provided no documentary evidence to rebut the *prima facie* case of the Department. Accordingly, it is my conclusion that taxpayer is subject to the additional income tax.

WHEREFORE, for the reasons stated above, it is my recommendation that the Notice of Deficiency issued October 11, 2005 be finalized as issued.

Kenneth J. Galvin  
Administrative Law Judge

August 20, 2007